Exhibit IND19

BEFORE THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

NEUROGRAPHIX, a California corporation, and WASHINGTON RESEARCH FOUNDATION, a not-for-profit Washington corporation,	:	
Plaintiffs,	:	Case Number
vs.	:	10-CV-1990 MRP (RZx)
SIEMENS MEDICAL SOLUTIONS USA, INC., a Delaware corporation, and SIEMENS AKTIENGESELLSCHAFT, a German corporation,	:	
Defendants.	:	

VIDEOTAPED DEPOSITION OF ROBERT NICK BRYAN, M.D.

Washington, D.C.

Wednesday, September 7, 2011

REPORTED BY:

SARA A. WICK, RPR, CRR

Videotaped deposition of ROBERT NICK BRYAN, M.D., called for examination pursuant to notice of deposition, on Wednesday, September 7, 2011, in Washington, D.C., at the offices of Kirkland & Ellis LLP, at 10:05 a.m., before SARA A. WICK, RPR, CRR, and a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

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Also Present: Jonathan Perry, Videographer

P R O C E E D I N G S

VIDEO OPERATOR: This is disk number 1 of the videotaped deposition of Robert Nick Bryan, taken on behalf of the Plaintiff in the matter of Neurographix, et al., versus Siemens Medical Solutions USA, Incorporated, et al., Case Number 10-1990 MRP (RZx), in the U.S. District Court for the Central District of California.

This deposition is being taken at the offices of Kirkland & Ellis, 655 15th Street Northwest, Washington, D.C. The time on the video screen is currently 10:05:13 a.m. Today's date is September 7th, 2011. The court reporter is Sara Wick, the videographer is Jonathan Perry, both here on behalf of Barkley Court Reporters.

Will counsel present, please, introduce themselves and state whom they represent.

MS. UNG: Fredricka Ung on behalf of Neurographix.

MR. MC ELDOWNEY: Sean McEldowney from Kirkland & Ellis on behalf of the Siemens Defendants. With me today is Christopher Nalevanko, also with Kirkland & Ellis.

VIDEO OPERATOR: And will the reporter swear in the witness, please.

Whereupon,

ROBERT NICK BRYAN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. UNG:

Q Good morning.

MR. MC ELDOWNEY: Before we start, there's one thing that I just want to point out. We had agreed on a schedule in this case for depositions that had the expert depositions completed before August 24th when Siemens's brief was due, and we had agreed on a window that ended August 17th. We offered two dates during that window, and Mr. Weiss informed us that those dates didn't work during the window because Marc Fenster had a family vacation planned and Alex Giza was going to be out of the country, and also, there was a Markman hearing on August 18th in Texas that Marc was involved in. Marc Fenster nor Alex Giza is here today, and I gather from our conversation a few minutes ago that you were not a part of the claim construction hearing in Texas.

And in the future, we expect more candid conversations about scheduling depositions and

exercise, I do not recall doing so.

Q Have you ever selected ROIs of two different structures for comparison of signal intensity of the two structures?

A Yes.

Q And how often do you do that?

A In clinical practice, very unusually. For research purposes, I have done that a number of times.

Q And why would you select ROIs of two different structures for comparison of signal intensity of the two structures?

A For research purposes, to quantitate differences in the signal in the two structures.

Q And when you were selecting the ROIs for research purposes to quantitate the differences in signal intensity in the two structures, you would select an ROI of, for example, structure A and structure B; correct?

A Yes.

Q And when selecting an ROI of structure A to determine the signal intensity of that structure, you would take care to select an ROI that only contained that structure and no other structure; correct?

MR. MC ELDOWNEY: Objection. This is an incomplete hypothetical.

THE WITNESS: I would place the ROI following the methodological directives of that particular task. So in the research environment, there's a methods section of a research report, and if ROIs are to be used in that project, then the definitions and how to operationally place the ROIs should be in that methods section, and I would follow those instructions.

BY MS. UNG:

Q But if you were interested in the signal intensity of a particular structure, you wouldn't select an ROI that consisted of that structure and some other structure; correct?

MR. MC ELDOWNEY: Objection; vague as to "structure" and "that structure."

THE WITNESS: It depends specifically on the task at hand.

BY MS. UNG:

Q Do you understand what I mean by a "homogenous nerve"?

MR. MC ELDOWNEY: Objection; vague.

THE WITNESS: I do not understand what you mean by "homogenous nerve."

BY MS. UNG:

Q Do you understand what I mean by "homogenous structure"?

A I have a general idea, based upon the definition of the term "homogenous," but it would need to be carefully defined if one is applying that to a particular task. Homogeneity is very much a function of scale.

Q Assuming that a particular structure has consistent signal intensity throughout the entire structure, can we agree for purposes of this deposition that that tissue would be considered a homogenous tissue?

MR. MC ELDOWNEY: Objection; vague as to "consistent signal intensity throughout the entire structure."

THE WITNESS: Repeat the question.

(Record read by the court reporter as follows: "Q: Assuming that a particular structure has consistent signal intensity throughout the entire structure, can we agree for purposes of this deposition that that tissue would be considered a homogenous tissue?")

MR. MC ELDOWNEY: And same objection.

Vague as to "consistent signal intensity throughout the entire structure."

THE WITNESS: So I will answer that, and my answer is no. We can agree that the signal intensity is homogeneous.

BY MS. UNG:

Q Okay.

A I would not agree that the tissue is homogeneous by other criteria.

Q Okay. I would like you to assume that when I'm saying -- to understand that when I refer to a homogenous tissue or homogenous structure, that what I'm referring to is that the signal intensity is homogenous and not tissue or structure.

MR. MC ELDOWNEY: I just want to say that Dr. Bryan just explained that he, I think, disagreed with some of the characterizations there. So if we're going to go forward with your understanding and definition of homogeneous here, I want to make clear on the record that it's a different definition than Dr. Bryan understands the word to mean and a different definition than what others might understand it to mean.

THE WITNESS: So for the part of this discussion, if we use, for this discussion only,

your definition of homogeneous as related to homogeneous signal, then I think we can proceed with the questions with the clear understanding that a homogeneous signal does not necessarily indicate a homogeneous structure from an anatomic sense.

BY MS. UNG:

Q Okay. I agree with you on that. We're referring to the homogeneity of the signal intensity of the structure and not the structure itself --

A Yes.

Q -- that would be homogenous; is that fair?

A Yes.

Q If you were to select an ROI in a structure with homogenous signal intensity, the ROI would yield similar results regardless of size; right?

MR. MC ELDOWNEY: Objection; vague.

THE WITNESS: Not necessarily, because noise, amongst other things, has to be taken into account.

BY MS. UNG:

Q Okay. Assuming that noise does not affect the signal intensity of the image, would --

A That's a false assumption. Noise always affects any measurement.

Q Okay.

A Signal intensity is a measurement. Noise will always affect the signal intensity.

Q Assuming that the nerve does not affect the signal intensity of the image, if you were to select an ROI with homogenous signal intensity, that ROI would yield similar results to an ROI that may defer in size; correct?

MR. MC ELDOWNEY: Just for clarity on the record, I think there was a word misspoken there. Nerve, perhaps, instead of noise. I object to the question as vague.

MS. UNG: Let me rephrase that.

BY MS. UNG:

Q Assuming that noise does not affect the signal intensity of the image, regardless of the size of the ROI that you're selecting within the homogenous -- the structure with homogenous signal intensity, you would obtain similar results; right?

MR. MC ELDOWNEY: I'm going to object, I guess, as vague and incomplete hypothetical. Dr. Bryan just explained he disagrees with the base assumption. So we are now two assumptions in on both homogeneity and noise. So we're building a pretty complex hypothetical here.

To the extent you understand the question and the assumptions, you can answer.

MS. UNG: Let me rephrase it.

BY MS. UNG:

Q Do you understand the question?

A I believe so, and it is a very hypothetical question, because such conditions really never exist in practice. But assuming that you have a structure that has homogeneous -- that means the same signal everywhere -- and no noise, which never happens in a measurement, then any ROI placed within that homogeneous signal area would have a similar measurement.

Q Now, assuming that you have a structure that is homogeneous -- that means the same signal intensity everywhere -- and the noise does not impact the image, not saying that there is no noise, but that the noise does not impact the image, then any ROI placed within that homogenous signal area would have similar measurements; right?

A I think I've answered that question.

MR. MC ELDOWNEY: I'm going to object and say asked and answered, as well as that we're still two assumptions deep on assumptions that Dr. Bryan disagrees with.

THE WITNESS: I believe your previous question was the same that I've answered.

MR. MC ELDOWNEY: When it's a convenient place where we can take a break and check on your documents as well.

BY MS. UNG:

Q You have agreed -- strike that.

You understand that what we have been referring to as a homogenous structure is simply a structure that has the same signal intensity throughout the structure; right?

A That is how you've defined it, and I've agreed to that definition for the purpose of this discussion.

Q So when I refer to a heterogenous structure, I'm referring to a structure that does not have the same signal intensity throughout the entire structure. Can you agree to that definition of "heterogenous" --

A Yes.

Q -- "structure"?

MR. MC ELDOWNEY: I'm going to point out again this is still based on the definition of homogeneity that Dr. Bryan disagrees with.

BY MS. UNG:

THE WITNESS: I don't understand the question. If I do understand the question, the answer is no. But can you clarify that question?

BY MS. UNG:

Q Sure. Could you use the thresholding process as a tool for selecting the region of interest?

MR. MC ELDOWNEY: Objection; vague.

THE WITNESS: One can use the thresholding process as one of the components to define an ROI if that is the instruction for that particular ROI application.

BY MS. UNG:

Q Okay. If you could take a look at Exhibit 11, which is the '360 patent.

A Yes.

Q Column 28 of the patent.

A Yes.

Q Beginning with the first complete sentence in column 28, that paragraph discusses a thresholding process; right?

MR. MC ELDOWNEY: Objection. The document speaks for itself.

If you need to read the whole paragraph or the context before and after, feel free to.

THE WITNESS: Direct me to which lines or paragraphs you want me to read here?

BY MS. UNG:

Q Line 2 through line 7.

A Okay.

Q Could you use this thresholding process described in column 28, beginning at line 2, to select a region of interest within a nerve?

MR. MC ELDOWNEY: Objection; vague as to "this thresholding process."

THE WITNESS: You could use a thresholding technique as a part of a ROI process. But as stated here, the thresholding process is so vague as to be useless. For instance, "thresholding process is used to identify relatively bright regions." What is "relative"? Relative usually requires a comparative, and there's no comparative here. So this phrase does not help me set up an ROI at all.

Following that, this statement "regions of the image potentially representative of nerve." Potentially, what does potentially mean? You need to have some criteria, something more definite than that to know whether or not this, quote, relatively bright voxel was potentially related to a nerve. What's the criteria for "potentially

representative"? So this -- if you will, if this is to be taken as an attempt at an operational definition of a thresholding process to establish an ROI, it is of no practical use, it does not sufficiently guide anyone to make an ROI. It is too vague. It is indefinite.

BY MS. UNG:

Q If you have made an image according to the method described in this patent and you have something bright that looks like it could be a nerve, could you use the thresholding process to select only that bright region that could represent a nerve?

MR. MC ELDOWNEY: Objection; vague as to "method described in this patent."

THE WITNESS: There are three conditions in your question. So the first condition is if one or I had made an image -- you may have to read back to me, an image using this methodology. So first of all, I don't know what this methodology is. This patent, to me, does not describe any methodology. It does not instruct me sufficiently to know if I may or may not have used this method.

I can refer to figure 11 in your patent. Figure 11 is described as a diagram of the

controlling sequence, the controller sequence. Figure 11 to me is a blank, unfilled-in pulse sequence. It's like being given a treble clef and told one could fill in the treble clef with notes and make good music. This is a blank sheet of paper. I don't know what this method is.

So this question that you're asking is extremely hypothetical from the first condition. I don't know what this method is.

And the second part of the question conditional was if there were a bright voxel -- I may want actually that part of the question read back.

(Record read by the court reporter as follows: "Q: If you have made an image according to the method described in this patent and you have something bright that looks like it could be a nerve, could you use the thresholding process to select only that bright region that could represent a nerve?")

THE WITNESS: So I've got a bright thing on the image that could be a nerve. What is the criteria for me to link the brightness to the nerve, to a possible nerve. The patent seems to suggest

that all bright things are nerves, or at least the brightest things are nerves. Again, I think if you go back to column 6, "There exists a large number of pulse sequences capable of controlling or operating a magnetic resonance imaging apparatus and each of which accomplishes some preferred" "optimization. Previously, however, no" "(single) or complex," leaving out the parentheses, "pulse sequence has been able to increase the relative signal intensity of" a "nerve so that it is brighter than all other tissues in the body or limb cross section. Surprisingly, the inventors have discovered that there are certain novel ways of assembling complex pulse sequences, wherein even though the simple components of the sequence decrease the signal-to-noise ratio of nerve or decrease the signal strength of nerve relative to other tissues, the fully assembled complex sequence actually results in the nerve signal being more intense than any other tissue. In this fashion, the image conspicuity of nerve is greatly increased."

So the way I read and interpret that is that if I had performed an image with this methodology, which I don't understand and I don't think the patent describes, and I get an image, the

brightest things on there are nerve that has not been demonstrated to be true in the patent and the illustrations. So this is getting really, really hypothetical now.

Then the final part is, could I use the thresholding method to select those bright areas as nerves. And the answer to that question is no. I could, with the thresholding technique, select those bright areas.

BY MS. UNG:

Q Okay.

A But I could not make the inference that those are nerves.

Q Okay. So you could use the thresholding process, however, to select the bright areas?

A Yes, I can use a thresholding process to select any bright signal.

Q And when you're using the thresholding process to select the bright area in the image, could you use the thresholding process to select the largest region of interest within that bright region?

MR. MC ELDOWNEY: Objection; vague as to "largest region."

THE WITNESS: As I understand the

question, I believe the answer is no. Thresholding is simply an operation on signal brightness. In and of itself, it does not determine size, shape, or volume. The thresholding tool operates simply on the signal intensity of each voxel. You would have to do something else to define a spatial property such as size, shape, or position.

BY MS. UNG:

Q Can you use the thresholding process to identify the brightest area in an image?

MR. MC ELDOWNEY: Objection to form as to "the thresholding process."

THE WITNESS: Yes, generally, you can use a thresholding process to identify the brightest. That's not the only thing a thresholding could identify, but it could identify the brightest.

BY MS. UNG:

Q In your expert report, you have expressed the opinion that noise could obscure the differences in tissue signal intensities; right?

A Yes.

Q Do you know if noise actually obscured the signal intensities in the images you used in Exhibit C to your opening report?

MR. MC ELDOWNEY: Objection; vague.

THE WITNESS: I did not do any noise calculations.

BY MS. UNG:

Q Why did you not do any noise calculations?

A As sort of agreed upon and stated in the report, I was simply applying the formula that we previously discussed, Sn over Sb. I was simply using that formula, which I've already indicated was an inadequate formula because it did not include noise as a component, so for those calculations, I was using for this report and for that purpose only the formula Sn over Sb. That does not include noise.

Q Do you know if noise actually obscured the signal intensities in the images you used in Exhibit C to your opening report?

A Noise affected the signal intensities on those images, yes.

Q And what is your basis for that opinion?

A There is noise in all measurements. Images have many measurements. There is noise in all images.

Q Do you know if --

A There is an ROI that is outside of the body that is one reflection, not at all possibly the

I HEREBY CERTIFY that I have read this transcript of my deposition and that this transcript accurately states the testimony given by me, with the changes or corrections, if any, as noted.

_____X

Subscribed and sworn to before me this_____day of _____, 20_____.

_____X

Notary Public

My commission expires:_____.